

**Minutes of a Special Session of the Common Council of the Town of Clarkdale
Held on Wednesday, July 27, 2021 at 4:00 P.M. (Hybrid meeting in person and via
Video-Conferencing)**

A Special Meeting of the Common Council of the Town of Clarkdale was held on Wednesday, July 22, 2021, at 4 P.M.

Town Council:

Mayor Robyn Prud'homme-Bauer
Vice Mayor Debbie Hunseder
Councilmember Bill Regner
Councilmember Marney Babbitt-Pierce
Councilmember Lisa O'Neill

Town Staff:

Interim Town Manager Rob Sweeney
Public Works Director Maher Hazine
Interim Finance Director Neal Young
Community Development Director Ruth Mayday
Town Clerk Mary Ellen Dunn

ALL ITEMS ON THIS AGENDA ARE SCHEDULED FOR DISCUSSION AND POSSIBLE ACTION, UNLESS OTHERWISE NOTED.

CALL TO ORDER – Meeting was called to order at 4:00 P.M. by Mayor Prud'homme-Bauer.

Mayor Prud'homme-Bauer called for a moment of silence for Faith Moore and her family, specifically her grandparents, Joe Moore (retired Fire Chief) and Kim Moore (retired Ambulance Chief).

PUBLIC COMMENT – The Town Council invites the public to provide comments at this time. Members of the Council may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. §38-431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date. Persons interested in making a comment on a specific agenda item are asked to complete a brief form and submit it to the Town Clerk during the meeting. Each speaker is asked to limit their comments to five minutes.

Public Works Director, Maher Hazine, presented a Happy Birthday video for Mayor Prud'homme-Bauer from staff.

CONSENT AGENDA - The consent agenda portion of the agenda is a means of expediting routine matters that must be acted on by the Council. All items are approved with one motion. Any items may be removed for discussion at the request of any Council Member.

- A. Reports** - Approval of written Reports from Town Departments and Other Agencies
Building Permit Report – June 2021
Capital Improvements Report – June 2021

Magistrate Court Report – June 2021
Water and Wastewater Report – June 2021
Police Department Report – June 2021
Special Event Approval – Clarkdale Foundation for event October 2, 2021
CAT/LYNX Transit Report – June 2021
Verde Valley Humane Society – June 2021

- B. Child Support Awareness Proclamation** – Approval of a proclamation declaring the month of August Child Support Awareness month.
- C. Addendum to Yavapai County Flood Control IGA** – Approval of an addendum to an IGA with Yavapai County Flood Control for FY 2020-2021 not to exceed \$50,000 and in an amount of \$10,000 as a carry-over amount for FY 2020-2021.

Action: Approve Consent Agenda items A – C as presented.

Motion: Vice Mayor Hunseder

Second: Council Member Babbitt-Pierce

Vote:

Voting Member	Aye/Nay
Council Member Marney Babbitt-Pierce	Aye
Vice Mayor Debbie Hunseder	Aye
Council Member Lisa O'Neill	Aye
Mayor Robyn Prud'homme-Bauer	Aye
Council Member Bill Regner	Aye

NEW BUSINESS

AN ORDINANCE SETTING FORTH VALUATIONS OF PROPERTY IN THE TOWN OF CLARKDALE FOR THE YEAR 2021-2022 ALONG WITH ADOPTION OF THE TAX LEVY FOR SAID PROPERTY - Discussion and consideration of Ordinance #414, adopting the tax levy and setting the valuations of property in the Town for FY 2021-2022.

On July 13, 2021 the Council held a public hearing regarding the Town's Final Budget and property tax levy. State Statutes require at least 14 days between the public hearing and adoption of the property tax levy.

The tax levy is placed on each one hundred dollars (\$100) of assessed value of all property, both real and personal, within the corporate limits of the Town of Clarkdale, except property that the law exempts from taxation.

The recommended tax rate for 2021-2022 is \$1.5318 to raise \$598,685 for purposes of funding general municipal government operations and maintenance. The following table reflects the tax rate and levy for the prior two years and recommended levy for next fiscal year.

<u>FISCAL YEAR</u>	<u>TAX RATE</u>	<u>TAXES</u>
2019-2020	1.6150	\$567,790
2020-2021	1.5841	\$592,866
2021-2022	1.5318	\$598,685

Interim Finance Director Neal Young presented information on this agenda item to Council.

Action: Approve Ordinance No. 414, an Ordinance of the Mayor and Common Council of the Town of Clarkdale, Yavapai County, Arizona, establishing a primary property tax levy for fiscal year 2021-2022.

Motion: Council Member O'Neill

Second: Council Member Babbitt-Pierce

Vote:

Voting Member	Aye/Nay
Council Member Marney Babbitt-Pierce	Aye
Vice Mayor Debbie Hunseder	Aye
Council Member Lisa O'Neill	Aye
Mayor Robyn Prud'homme-Bauer	Aye
Council Member Bill Regner	Aye

AMERICAN RESCUE PLAN ACT (ARPA) WORK SESSION – A work session and request for direction to staff regarding the American Rescue Plan Act (ARPA) of 2021.

The American Rescue Plan Act of 2021 (ARPA or the Act) was signed into law by President Biden on March 11, 2021. The Act provides additional COVID-19 related relief for individuals, businesses, and state, local and tribal governments. Included in the Act was \$350 billion of aid directed to state and local governments. Of the \$350 billion, a total of \$19.5 billion will be allocated to "non-entitlement units" of local governments. Non-entitlement units (NEU) are those cities or towns with populations of under 50,000. The Town of Clarkdale is an NEU.

The State of Arizona received approximately \$226.7 million to distribute to the sixty-seven NEU's in the state. Funding for NEUs has been distributed to local governments based on population. The Town was awarded \$1,466,507 from the Act. The payment of funds will be in two tranches. The second tranche will be paid twelve months after the first payment.

In addition, while the adopted budget includes the receipt and possible expenditure of the entire the ARPA allocation, most of the funds are not programmed. The FY 2021-22 adopted Town budget includes an allocation of \$72,000 from ARPA funds to provide premium pay to eligible employees for the period of the defined COVID-19 emergency (fifty-two-week period ending in March 2021). ARPA funds should be obligated by December 31, 2024, and fully expended by December 31, 2026. Obligated means orders have been placed for property and services, contracts have been executed during a given period that require payment by the Town of Clarkdale during the same or a future period.

Analysis: The Act has identified several eligible activities that can be funded with ARPA funds. Outlined below are those activities.

Public Health and Safety

These provisions authorize the use of ARPA funds to respond to the public health emergency with respect to COVID-19 or its negative economic impacts. Several types of uses that would be responsive to the impacts of the COVID-19 emergency include assistance to households, small businesses, and nonprofits and aid to impacted industries, such as tourism, travel, and hospitality.

Eligible uses under this category must be in response to the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID-19 public health emergency.

Premium Pay

ARPA payments may be used by recipients to provide premium pay to eligible workers performing essential work during the COVID-19 public health emergency or to provide grants to third-party employers with eligible workers performing essential work. These are workers who have been and continue to be relied on to maintain continuity of operations of essential critical infrastructure sectors, including those who are critical to protecting the health and wellbeing of their communities.

Revenue Loss

ARPA payments may be used for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 public health emergency. A recipient's reduction in revenue is measured relative to the revenue collected in the most recent full fiscal year prior to the emergency. ARPA funds could be used to avoid cuts to government services and, thus, enable recipients to continue to provide services and ensure that fiscal austerity measures do not hamper the broader economic recovery.

Investments in Infrastructure

To assist in meeting the critical need for investments and improvements to existing infrastructure in water, sewer, and broadband, ARPA allows funds to be expended for necessary investments that improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband service. Necessary investments are designed to provide an adequate minimum level of service and are unlikely to be made using private sources of funds.

The Act also has identified prohibited uses as outlined below.

Deposit into Pension Funds

ARPA funds may not be used for ARPA funds may not be used for "deposit into any pension fund." The US Department of Treasury interprets "deposit" in this context to refer to an extraordinary payment into a pension fund for the purpose of reducing an accrued, unfunded liability. More specifically, the Interim Final Rule does not permit ARPA assistance to be used to make a payment to a pension fund if the payment reduces a liability incurred prior to the start of the COVID-19 emergency; and, the payment occurs outside the regular timing to make such payments. This definition is distinct from a payroll contribution which occurs at regular intervals based on a pre-determined percentage of employee wages and salaries.

Offset a Reduction in Net Tax Revenue

For States and territories, ARPA prohibits to use of funds to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation during the covered period. If a State or territory uses the funds to offset a reduction in net tax

revenue, the ARPA provides that the State or territory must repay to the US Treasury any ARPA funds used to fund the tax offset.

Other Restrictions

ARPA monies cannot be used as non-Federal match for other Federal grants and programs.

The Government Finance Officers Association has identified several guiding principles for the use of ARPA funds to help ensure the long-term value of investments using this one-time infusion of resources. Outlined below are the principles.

ARPA Funds Are Temporary in Nature

ARPA funds are non-recurring. Accordingly, GFOA recommends the use of ARPA funds be applied to primarily to non-recurring expenditures. This means that care should be taken to avoid creating new programs or add-ons that would require an ongoing financial commitment.

Also, the use of ARPA funds to cover any operating deficit caused by COVID-19 should be considered temporary.

Investment in critical infrastructure is well suited for ARPA fund use since expenditures are non-recurring and the benefit can last many years. Care should be taken to assess any ongoing operating and maintenance costs related to infrastructure projects.

ARPA Scanning and Partnering Efforts

GFOA recommends that local jurisdictions be cognizant of regional initiatives and consider partnering with other ARPA recipients. Such consideration may help enhance the condition of the entire regional community.

Take Time and Careful Consideration

GFOA recommends the use of other grant funds first when possible and save ARPA funds for priorities not eligible for other federal or state assistance.

Try to spread ARPA funds over the allowable period to help enhance budget stability.
Interim Finance Director Neal Young presented this agenda item to Council.

Council Member Babbitt-Pierce clarified that Young was recommending expenditures in premium pay and waste water and water infrastructure.

Council Member O'Neill asked if the monies that had been allocated in the budget for those projects would go back to the general fund and Young replied that the \$72,000 that had been identified would not be diverted, however alternative fund sources identified for possible ARPA projects in the capital plan would be preserved for future use.

Council Member Regner:

- Could funds could be used retroactively? Young stated that the retroactive funds would be used for premium pay and that other uses would require a need that would begin with March 3, 2021.
- Could businesses be re-started with these funds? Young said that start ups could be funded as long as we would be assisting them as to how they would mitigate COVID issues on their property and would require town staff oversight. It would require a plan and

ability to re-start. Plans would need to be reviewed and approved by Town staff. Could streets be included in the infrastructure category and Young stated they would not except in existing circumstances. Interim Town Manager Sweeney indicated that street funds were carved out in a separate federal infrastructure package.

- Could we extend waste water capture with this funding? He stated that there was approximately one million gallons of water that we can't account for each month. Is there a technology that could be employed to track down some of that loss and would that be an appropriate use of the funds? Hazine stated that fluctuate between 5 and 8% of loss and there is no way to track a hundred percent of the loss.
- Could funds be used to design and build a recharge system? Hazine stated that we would have to first see what benefit would come from that and what methodology would be used. He stated that approximately one year ago Council approved a project study that could not proceed due to COVID. One of the items was what to do with effluent water. There were several options and is one of the items that will be evaluated in the study.

Sweeney noted that deadlines are that monies be spent by December of 2024, however recognize that some infrastructure projects that already have a legal commitment and would have an extension to December 2026.

Hunseder stated she appreciates having the capital improvement plan in place as that will allow us to move forward more easily. Sweeney stated that the full value of ARPA funds have been budgeted for so Council has full flexibility to direct any part of the total amount to projects.

Council directed staff to proceed with premium pay and infrastructure project planning.

Action: This item is being presented for discussion and possible direction. No Council action is required at this time.

SOLE SOURCE SERVICE AGREEMENT FOR PROFESSIONAL SERVICES FACILITIES LOCATING AND MARKING – Discussion and possible action regarding the award of a Sole Source Service Agreement with USIC Locating Services, LLC, an Indiana limited liability company, (USIC) for Facility Locating and Marking Services.

Arizona law requires anyone who plans to dig in any way for any reason to contact Arizona 811 at least two full working days in advance (excluding weekends and state holidays) to have all underground utilities in the area located and marked.

Knowing the location of underground utilities before any type of digging is the simplest and most effective way to prevent serious injuries and reduce or eliminate damage to the utilities, that residents all rely on every day.

As a result, the Town of Clarkdale is responsible for locating the water, sewer, and storm drain facilities that we own within the Town limits. As such, we must allocate resources to ensure we comply with Arizona law. As the owner of such utilities, any damage that results due to mismarking, will put the Town in a risky position of liability.

This agreement will require USIC to furnish all labor, materials, and equipment necessary to perform locating services for The Town within the contract service area. All ticket transmittals to USIC shall come directly from the One-Call center for the contract service area.

Per the proposed agreement USIC Locating Services, LLC will charge a fee based on services provided as follows:

\$ 15.00	Per Ticket Received from the One Call
\$ 30.00	Per Emergency Normal Hours Locate Ticket
\$ 50.00	Per Emergency After Hours Locate Ticket
\$ 15.00	Per Quarter Hour for Tickets Exceeding 30 Minutes of Locating Time
\$ 15.00	Per Quarter Hour for Watch and Protect or Site Surveillance Work
\$300.00	Damage Investigation Fee

It is estimated that the total cost for this contract is approximately \$12,000, an amount currently budgeted in the FY 2021/2022.

Per Town Code any amount in excess of \$10,000 shall require a minimum of three bids. However, Town Code does allow for exemptions. Per Section 3.3.9, the USIC Contract falls under two exceptions:

A. *Exclusive Service.* In the event that there is only one (1) firm or company or individual within twenty-five (25) highway miles of the Town capable of providing a particular service or commodity, and such services or commodities cannot be secured from other persons or companies, then Section 3-3-2 shall not be applicable, and such services or commodities can be secured without bidding.

B. *Professional or Specialized Services.*

The following are services that are exempt from the purchasing requirements herein:

Services which involve the exercise of professional discretion and independent judgment based on an advanced or specialized knowledge, expertise or training gained by formal studies or experience. Such services include, but are not limited to, the services of lawyers, certified public accountants, auditors, consultants, appraisers, engineers, architects, landscape architects, assayers, geologists, land surveyors and similar occupations involving specialized knowledge, labor or skill predominantly involving mental or intellectual rather than physical or manual skills. Questions regarding whether a service is a professional service shall be referred to the Purchasing Officer.

USIC is the only firm located in the Verde Valley Area (Exception A). Additionally, their work requires specialized professional discretion and judgment (Exception B).

Public Works Director Maher Hazine presented this information to Council. Hazine explained that our Risk Pool and Town Attorney would be required to approve the liability portions of the contract prior to allowing Hazine to sign off on the contract. He explained USIC does locating for Qwest, Sparklight and some for APS. Locating services only occur on public use land or public rights-of-way.

Action: Approve a Sole Source Service Agreement with USIC Locating Services, LLC, an Indiana limited liability company, (USIC) for Facility Locating and Marking Services and authorize the Public Works Director to finalize and approve such agreement.

Motion: Vice Mayor Hunseder

Second: Council Member Babbitt-Pierce

Vote:

Voting Member	Aye/Nay
Council Member Marney Babbitt-Pierce	Aye
Vice Mayor Debbie Hunseder	Aye
Council Member Lisa O'Neill	Aye
Mayor Robyn Prud'homme-Bauer	Aye
Council Member Bill Regner	Aye

Mayor Prud'homme-Bauer recessed the Special Meeting to call the Board of Adjustment to Order.

OPEN MEETING LAW PRIMER – A training session led by Town Attorney on the Open Meeting Law requirements.

A primer/refresher on the Open Meeting Law statutes provided by the Town Attorney.

Stephen Polk, Town Attorney, was in attendance to present this information to Council.

Public meetings, work sessions, retreats and social gatherings and seminars defined and discussed.

Action: This is a Council training and no action is required.

BOARD OF ADJUSTMENT WORK SESSION – A work session led by the Town Attorney on the legal responsibilities Council has as members of the Board of Adjustment.

In 2018 the Clarkdale Common Council assumed the duties of the Board of Adjustment pursuant to Town Code Section 17-2. There have been no requests brought to the Board since that time.

Staff determined that a Town Attorney-led discussion and training would be appropriate to educate the Council on the duties and responsibilities they acquire in this role.

This agenda item then, is a work session provided by Town Attorney Stephen Polk providing information to Council on legal responsibilities of Board of Adjustment. Discussed adverse zoning rulings, appeals regarding variances, and the restrictions regarding the granting of variances.

Town Attorney Stephen Polk presented information on roles and responsibilities of Council in service as Board of Adjustment.

Action: This is a Council training and no action is required.

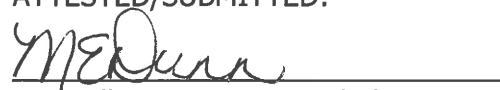
FUTURE AGENDA ITEMS - Listing of items to be placed on a future council agenda.

ADJOURNMENT: Without objection Mayor Robyn Prud'homme-Bauer adjourned the meeting at 5:35 P.M.

APPROVED:


Robyn Prud'homme-Bauer, Mayor

ATTESTED/SUBMITTED:



Mary Ellen Dunn, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of the Town of Clarkdale, Arizona held on the 27th day of July 2021. I further certify that meeting was duly called and held and that a quorum was present.

Dated this 10th day of August, 2021.

SEAL


Mary Ellen Dunn, Town Clerk